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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/709,233	11/09/2000	Lewis T. Ladocsi	158.7019USU	3087

7590

04/06/2006

Paul D. Greeley
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford, CT 06901-2682

EXAMINER

KOPPIKAR, VIVEK D

ART UNIT

PAPER NUMBER

3626

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/709,233

Applicant(s)

LADOC SI ET AL.

Examiner

Vivek D. Koppikar

Art Unit

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Status of the Application

1. Claims 22-42 have been examined in this application. This Office Action is in response to the "Amendment" and "Remarks" sections filed on January 20, 2006. This Office Action is Final.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 22-27, 29 and 33-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 5,031,161 to Kendrick in view of US Patent Number 5,692,501 to Minturn.

(A) As per claims 22-27, 29 and 33-43, the rejection of these claims was set forth in the Office Action dated October 7, 2005 and is incorporated by reference in this Office Action.

4. Claim 28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kendrick and Minturn as applied to claims 22 and 29 above, respectively, and further in view of US Patent Number 5,867,821 to Ballantyne.

(A) As per claims 28 and 30 the rejection of these claims was set forth in the Office Action dated October 7, 2005 and is incorporated by reference in this Office Action.

5. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kendrick in view of Minturn and Ballantyne as applied to Claim 30 above and in further view of US Patent Number 5,193,855 to Shamos.

(A) As per claim 32, the rejection of this claim was set forth in the Office Action dated October 7, 2005 and is incorporated by reference in this Office Action.

Response to Arguments

6. Applicant's arguments filed January 20, 2006 have been fully considered but they are not persuasive. The applicants arguments are addressed in sequential order as they were presented in the "Remarks" section.

Applicants argue that the Kendrick reference does not teach a patient-specific (user-specific) model for determining life expectancy. However, the examiner would like to point out that Kendrick does in fact teach that the life expectancy output in Kendrick is based at least in part upon factors that the users input into the system of Kendrick regarding their particular health conditions (Kendrick: Col. 6, Ln. 28-37 and Claims 16 and 20). Therefore, the examiner takes the position that the life expectancy value outputted by Kendrick is in fact based on a patient specific-model because it is based at least in part on data provided by a patient that is specific and varies with each and every patient.

The applicants next argue tat the Minturn reference does not disclose or suggest modeling life expectancy and further does not teach or disclose a patient-specific model. However, as noted above, Kendrick teaches this aforementioned feature. Minturn is relied upon to show that a health profile database is well known in the art. Furthermore, the examiner takes the position

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that the combined teachings of Kendrick in view of Minturn disclose all the limitations of the independent claims.

The applicants next argue that the Ballantyne and Shamos references do not overcome the deficiencies of either Kendrick or Minturn. However, as noted above, the combined teachings of Kendrick in view of Minturn teach the limitations of the independent claims. Ballantyne and Shamos are used to show that the limitations claims in claims 22, 28 and 31, respectively, are well known in the art and the motivation for combining Ballantyne with Kendrick in view of Minturn and the motivation for combining Shamos with Kendrick in view of Minturn is clearly set forth in the above rejections.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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8. Any inquire concerning this communication or earlier communications from the examiner should be directed to Vivek Koppikar, whose telephone number is (571) 272-5109. The examiner can normally be reached from Monday to Friday between 8 AM and 4:30 PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (571) 272-6776. The fax telephone number for this group is (703) 872-9326 (for official communications including After Final communications labeled "Box AF").

Another resource that is available to applicants is the Patent Application Information Retrieval (PAIR). Information regarding the status of an application can be obtained from the (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAX. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, please feel free to contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely, 

Vivek Koppikar

3/20/2006


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER